

**R E S O L U T I O N**

Resolution E-3950. Southern California Edison Company for approval of its updated procurement plan filed in compliance with D.04-12-048.

By Advice Letter 1878-E, filed March 25, 2005.

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**SUMMARY**

**This Resolution approves Southern California Edison Company's (SCE) updated procurement plan filed in compliance with Decision (D.) 04-12-048.**

Per Ordering Paragraphs (OP) 1 and 24, and Findings of Fact (FOF) 106 and 108, of D.04-12-048, SCE filed its updated procurement plan on March 25, 2005.

SCE requested that the filing be effective on May 4, 2005.

The AL submitted by SCE includes confidential appendices intended to demonstrate its compliance with D.04-12-048. SCE submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.

The Cogeneration Association of California (CAC) and the Energy Producers and Users Coalition (EPUC) timely protested AL 1878-E on the ground that SCE kept confidential the status of its expiring contracts with qualifying facilities (QFs). The CAC and EPUC's protest is rejected.

This resolution approves AL 1878-E effective today, August 25, 2005.

**BACKGROUND**

**D.04-12-048 orders the three major electric utilities to submit compliance filings to update their procurement plans in accordance with the direction provided in the Decision.**

On December 16, 2004, the Commission adopted D.04-12-048 in Rulemaking 04-04-003, an Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.

The objective of D.04-12-048 was “to give the three IOUs [investor owned utilities] authorization to plan for and procure the resources necessary to provide reliable service to their customer loads for the planning period 2005 through 2014” as well as “coordinate and incorporate Commission and legislative efforts for other proceedings.”<sup>1</sup> Towards this end, D.04-12-048 adopted the long-term procurement plans of the three IOUs (Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company), provided direction on resource planning, and ordered the following:

“Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) shall, by no later than March 25, 2005, submit a compliance filing updating their procurement plans to reflect the changes and modifications adopted in today’s decision. This compliance filing, shall include, but not be limited to the following:

- a. Annual energy and capacity resource accounting tables, consistent with directions on baseline load forecasts adopted in this decision;
- b. Procurement activities undertaken by the utilities subsequent to their initial filings in this proceeding;
- c. Revised energy efficiency targets as adopted in Decision (D.) 04-09-060;
- d. Demand response programs proposed for 2005 implementation in Rulemaking (R.) 02-06-011;
- e. The effect of resource adequacy and local reliability requirements adopted respectively in D.04-10-035 and D.04-07-028;
- f. Changes occurring as a result of Commission decisions implementing Community Choice Aggregation (CCA) in R.03-10-033;
- g. Revised forecasts for the price of natural gas, if necessary;
- h. Status of qualifying facilities (QFs) with soon to be expiring contracts; and
- i. Any other material information that affects the utilities’ procurement activities.”

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<sup>1</sup> D.04-12-048, p.5

In addition, FOF 106 of D.04-12-048 required that any updates to the short-term procurement plans must be made within 30 days after the issuance of the decision. SCE requested an extension of time, and was permitted to file additional updates to its Assembly Bill (AB) 57 Procurement Plan in AL 1878.<sup>2</sup> FOF 108 of D.04-12-048 also provided that “if an increase to SCE’s collateral capacity is required to carry out the LTPP approved by the Commission, SCE will provide updated collateral estimates.”

In compliance with the D.04-12-048, PG&E, SCE and SDG&E filed updates to their procurement plans on March 25, 2005. SCE filed substitute sheets on May 27 and June 30, 2005.

## **NOTICE**

Notice of AL 1878-E was made by publication in the Commission’s Daily Calendar. SCE states that copies of the Advice Letter were mailed and distributed in accordance with Section III-G of General Order (GO) 96-A.

## **PROTESTS**

The Cogeneration Association of California (CAC) and the Energy Producers and Users Coalition (EPUC) timely protested AL 1878-E on the ground that SCE kept confidential the status of its expiring contracts with qualifying facilities (QFs). Since SCE provided this information in a confidential appendix, the parties could not determine whether the status of the QF contracts was correctly reported. The CAC and EPUC also stated that SCE’s claim for confidential treatment of the contract expiration dates was inconsistent with a more open and transparent procurement process.

In its response to the CAC and EPUC’s protest, SCE removed the confidential designation from the Appendix in dispute and agreed that it was incorrectly classified.

## **DISCUSSION**

**Energy Division reviewed SCE's compliance filing and concluded that SCE’s updated procurement plan complied with D.04-12-048.**

Per OP 1 of D.04-12-048, SCE filed its updated procurement plan on March 25, 2005. SCE included the following updates in its compliance filing:

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<sup>2</sup> The AB 57 component of SCE’s LTPP provides upfront achievable standards and criteria for procurement and is successor to SCE’s 2004 Short-term Procurement Plan.

- Updated energy and capacity balance tables;
- New procurement activities;
  - 2004 Winter Request For Offers (RFO)
  - 2004 Spring RFO
  - Etiwanda contract
  - 2003 Renewable Portfolio Standard RFO
- Updated energy efficiency assumptions to match the EE targets provided in D.04-09-060;
- Peak load reductions equal to demand response targets set in R.02-06-001;
- Resource Adequacy Requirements as set in D.04-10-035;
- Excluded part of the City of Cerritos' load;
- Revised natural gas price forecast;
- QF contract status.

SCE also updated the AB 57 component of its procurement plan by revising its annual position limits and ratable rates for forward transactions. As SCE stated, the revised position limits and ratable rates would allow, but not require, SCE to execute transactions, including forward capacity purchase, forward energy purchase, forward energy sales, QF and non-QF forward natural gas purchase and gas storage services, to meet the forecast need for 2005-2014 based on the current load and resources.

D.04-12-048 also authorized SCE to file an update to its procurement plan to revise its collateral limits. D.03-12-062 had approved SCE's request to maintain collateral capacity of up to \$650 million.

SCE's filing contains the updates ordered in D.04-12-048, so the Energy Division concludes that SCE's filing should be approved.

In response to the CAC and EPUC's protest, SCE agreed that the appendix with the QF status information was not confidential and therefore made the appendix public. Even though the appendix did not list the expiration dates of the QF contracts, it provided an explanation of SCE's QF assumptions. The CAC and EPUC's protest is rejected.

D.04-12-048 expressed the Commission's intent to provide updated capacity and energy tables, once the data are revised. Specifically, the Decision stated the following:

"This Commission favors openness in its decisions and in the information that market participants have in dealing with each other. Another section of this decision discusses

specifically how we are responding to legislative direction on confidentiality matters. In this section we note that it is not the intent of the Commission to provide the means by which market power could be exercised against the LSEs and, hence, against electric service customers in California. Therefore, this decision does not present information about the current NOPs of the utilities. Nor do we provide the elements from which that information can be calculated. **However, we will provide simplified tables based on projections of future resource balance information for the years 2007-2014 after those numbers have been refreshed from their initial filing in July.**" (p.32) (emphasis added)

The AL submitted by SCE includes confidential appendices intended to demonstrate its compliance with D.04-12-048. SCE submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.

The CPUC opened Rulemaking (R.)05-06-040, which will examine issues related to the disclosure of procurement-related data and documents, balancing the need for effective public participation with the potential harm to ratepayers that may result from disclosure of market sensitive data. In order not to prejudge the outcome of R.05-06-040, we will not disclose SCE's updated procurement data at this time. Depending on the outcome of R.05-06-040, we may require SCE to file a supplement to its advice letter

The CAC and EPUC's protest is rejected.

## **COMMENTS**

PU Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution is neither waived nor reduced. Accordingly, the draft resolution is mailed to parties in R.04-04-003 and will be placed on the Commission's agenda no earlier than 30 days from today. Comments are due on August 22, 2005. Reply comments are due August 29, 2005.

## **FINDINGS**

1. Per Ordering Paragraphs (OP) 1 and 24, and Findings of Fact (FOF) 106 and 108, of D.04-12-048, SCE filed its updated procurement plan on March 25, 2005.

2. Advice Letter 1878-E was protested by the Cogeneration Association of California (CAC) and the Energy Producers and Users Coalition (EPUC).
3. In its response to the CAC and EPUC's protest, SCE removed the confidential designation from the Appendix in dispute and agreed that it was incorrectly classified, and attached the Appendix to its response to the protest.
4. Energy Division concludes that SCE's updated long-term procurement plans as filed in AL 1878-E comply with D.04-12-048.
5. The AL submitted by SCE includes confidential appendices intended to demonstrate its compliance with D.04-12-048. SCE submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.
6. The CPUC opened Rulemaking (R.)05-06-040, which will examine issues related to the disclosure of procurement-related data and documents, balancing the need for effective public participation with the potential harm to ratepayers that may result from disclosure of market sensitive data.
7. In order not to prejudice the outcome of R.05-06-040, we will not disclose SCE's updated procurement data at this time. Depending on the outcome of R.05-06-040, we may require SCE to disclose the updated procurement data submitted as part of its compliance filing Advice Letter (AL) 1878-E.

Therefore it is ordered that:

1. We approve SCE's Advice Letter 1878-E.
2. Depending on the outcome of the confidentiality rulemaking, R.05-06-040, we may require SCE to disclose the updated procurement data submitted as part of its compliance filing Advice Letter 1878-E.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 25, 2005; the following Commissioners voting favorably thereon:

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STEVE LARSON  
Executive Director

Resolution E-3950  
SCE AL 1878-E/SKH

September 8, 2005

Resolution E-3950  
SCE AL 1878-E/SKH  
August 3, 2005

September 8, 2005

ID#4846 RESOLUTION E-3950  
Commission Meeting September 8, 2005

TO: PARTIES TO Southern California Edison Company ADVICE LETTER 1878-E

Enclosed is draft Resolution Number E-3950 of the Energy Division. It will be on the agenda at the next Commission meeting, which is held at least 20 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Jerry Royer  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

A copy of the comments should be submitted to:

Sepideh Khosrowjah  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Fax: 415-703-2200



September 8, 2005

Any comments on the draft Resolution must be received by the Energy Division by August 23, 2005. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on August 30, 2005, five days after comments are filed, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

Judith Ikle  
Energy Division

Enclosure: Service List  
Certificate of Service

September 8, 2005

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of Draft Resolution E-3950 on all parties in these filings or their attorneys as shown on the attached list.

Dated August 3, 2005 at San Francisco, California.

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*Jerry Royer*

**NOTICE**

Parties should notify the Energy Division, Public Utilities  
Commission, 505 Van Ness Avenue, Room 4002  
San Francisco, CA 94102, of any change of address to  
insure that they continue to receive documents. You  
must indicate the Resolution number on the service list  
on which your name appears.

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Resolution E-3950  
SCE AL 1878-E/SKH

September 8, 2005

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Resolution E-3950  
SCE AL 1878-E/SKH

September 8, 2005

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Resolution E-3950  
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